IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.847 OF 1994

Manohar G. Samant .. Petitioner.

V/s.

Union of India & Others .. Respondents.

Mr.D.H. Mehta i/b. Mr.N.M. Shah for the petitioner.

Mr.H.V. Mehta for the respondents.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 19TH APRIL, 2005.

P.C. :

1. Heard learned counsel for the rival parties.

2. This petition is directed against the appellate order dated March 1994 incorporated at Exhibit 'Q' whereby the Additional Director General of Foreign Trade has confirmed the fiscal penalty of Rs.10,00,000/- on the firm and its proprietors imposed in the order in original.

3. Perusal of the said impugned order would show that the appeal has been decided by one line order stating that "there was no merit in the appeal". No reasons are to be found in support of the order. There is no discussion with respect to the challenge

set up in the memo of appeal. Under these circumstances, the impugned order is clearly in breach of principles of natural justice.

4. Needless to mention that whenever the authorities are expected to adjudicate upon the matter, may be in exercise of judicial or quasi-judicial powers, the authorities are expected to record the reasons so as to enable the higher Court to read the mind of the authority deciding the matter. In absence of recording of reasons, the impugned order is liable to quashed and set aside.

5. In the result, order incorporated at Exhibit ‘Q’; forwarded to the petitioner under covering letter dated March 6, 1994, is quashed and set aside. The matter is remitted back to the Under Secretary to the Government of India or the Appropriate Officer for hearing afresh after due and reasonable notice to the petitioner, following principles of natural justice on its own merits.

6. At this juncture, it will not be out of place to mention that one application dated October 6, 1986 made by the petitioner, (incorporated at Annexure ‘F’ page 67) for extension of time to fulfil the export obligation is still pending. At the relevant time it

was addressed to the Controller of Exports, Ministry of Commerce, New Delhi. The said authority or any other authority whoever may have been permitted by law for the time being in force to decide it, is directed to decide the said application within a period of 15 days from the date of receipt of copy of this order. It would be open for the petitioner to produce copy of that order before the Appellate Authority, so as to enable the appellate authority to take proper view of the matter.

7. So far as bank guarantee is concerned, the same shall be kept alive by the petitioner till the appeal is heard and decided finally. The petitioner shall abide by the orders of the appellate authority.

8. The petition stands disposed of. Rule is made absolute in terms of this order. No order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)